



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

File: [REDACTED] Office: CALIFORNIA SERVICE CENTER

Date: APR 10 2000

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

Public Copy

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

Identifying information deleted to  
prevent clear, unwarranted  
invasion of personal privacy

INSTRUCTIONS:


This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

  
Francis M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a never-married native of Vietnam and a naturalized citizen of the United States. The beneficiary is a native and citizen of Vietnam who has never married. The director determined that the petitioner had not established that he and the beneficiary personally met within two years prior to the petition's filing date.

On appeal, the petitioner does not contest the findings of the director. He states only that the U.S. Navy prohibits servicemen, including former Vietnamese citizens, from entering Vietnam. He submits a letter dated April 9, 1998, by his Navy Commanding Officer stating that his request to enter his native country to wed his fiancée in 1997 was denied for the following reason: The Department of the Navy prohibits servicemen, including former Vietnamese citizens, from entering Vietnam.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiancée" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission....

According to section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiancée petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bonafide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival...

The petition was filed with the Service on October 16, 1997. Therefore, the petitioner and the beneficiary must have met in person between October 16, 1995 and October 16, 1997.

The petitioner submits a statement by his commanding officer, dated March 21, 1998, stating that he personally met the petitioner's fiancée aboard the USS BELLEAU WOOD on December 16, 1997 in Japan. Therefore, they did not meet in person within two years prior to filing the fiancée petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.